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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/883,636 06/26/97 GONG

L 3070-004

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WASHINGTON DC 20005-3096

TM02/0213

EXAMINER

MEISLAHN, D.

ART UNIT	PAPER NUMBER
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2132  
DATE MAILED:

02/13/01

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 08/883,636	Applicant(s) Gong
Examiner Douglas Meislahn	Group Art Unit 2132



Responsive to communication(s) filed on Nov 29, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 1-8 and 13-35 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-8 and 13-35 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on Jun 26, 1997 is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

## DETAILED ACTION

### ***Response to Amendment***

1. This action is in response to the amendment filed 29 November 2000 that amended claims 1, 2, 4-6, 13, 14, and 23. The objection to claim 23 has been overcome.

### ***Drawings***

2. Figures 1, 3, and 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Applicant has disagreed with this, basing their opinion on the figures having been described in connection with the claimed invention. However, on page 7 of the response filed 29 November 2000, applicant says that figure 1 is a "popular" scheme by the name of the International Standards Organization (ISO) Open Systems Interconnect (OSI) model. Figure 6 is a computer connected to the Internet. Figure 3 is common in TCP/IP.

3. The drawings are objected to because parts 500, 502, 504, 506, and 508 in figure 5 are not labeled. Correction is required. Each number in the figure needs a label. Without labels, the nature of each of the numbered elements is unclear.

### ***Response to Arguments***

4. Applicant's arguments filed 29 November 2000 have been fully considered but they are not persuasive. Applicant goes into great detail as to the differences and similarities between protocol and layer. However, applicant never supports the phrase "communication protocol layer independent security". As such, a serious question is raised as to the scope and intent of the claims. Applicant has compounded the problem

by ignoring the examiner's implicit question about the stated interpretation of this language. Finally, applicant gives two potential meanings for "protocol" without saying which would apply the offending phrase.

5. Applicant says that one type of Elgamal's encryption can be performed at one of several layers. This means that the encryption is independent of the layer from which it is performed. With respect to Helwig et al., applicant's claims do not preclude recording.

6. Applicant has attempted to challenge the examiner's taking of Official Notice; however, applicant has not provided adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice. MPEP 2144.03 Therefor, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The examiner's taking of Official Notice has been Maintained. Please note though, that Elgamal teaches the features for which a reference has been requested.

#### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-8 and 13-19 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly

connected, to make and/or use the invention. At no point does the specification use the phrase "communication protocol layer independent security."

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

10. Claims 1, 2, 5, 6, 13, 14, 17, 20, 21, 24, 25, 28, 29, 32, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Elgamal (5671279).

In line seven of column 15, Elgamal discusses transmitting data in streams. This anticipates steps a-c, all of which are apparent from communicating via data streams. He goes on in the following paragraph to discuss encryption in the application layer. The application layer is the top layer, and as such, is not dependent upon any other layers. Decryption at a recipient is anticipated by any encryption. This anticipates the last three steps.

Claim 2 is anticipated when Elgamal, later in the above cited paragraph, talks about encrypting at the socket layer.

11. Claims 1, 5, 13, 17, 20, 24, 28, and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Helwig et al. (5793749).

Helwig et al., in the paragraph spanning columns five and six, teach encrypting a data stream and then formatting it to be compatible with a transmission protocol. From this description, it is apparent that the encryption is not dependent upon the

communication protocol or any layers, thereby anticipating steps d-f of claim one. The first three steps of claim one are anticipated because the system uses data streams.

12. Claims 1, 5, 13, 17, 20, 24, 28, and 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schneier (Applied Cryptography). See figure 9.6.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 4, 7, 8, 15, 16, 18, 19, 22, 23, 26, 27, 30, 31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elgamal, Schneier, or Helwig et al.

Elgamal, Schneier, and Helwig et al. present systems in which encryption of a data stream is independent of the communication protocol and layer. They do not say that the communication channels or data streams are Java-based. Official notice is taken that it is old and well-known that Java is intended for networked/distributed environments and enables the construction of virus-free, tamper-free systems. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to base the systems of Elgamal, Schneier, or Helwig et al., all of which are networked or distributed environments, on Java, as is known in the art. This would enable the implementation of a virus-free, tamper-free system.

15. Claims 2, 6, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helwig et al. or Schneier.

Helwig et al. and Schneier present a system in which encryption of a data stream is independent of the communication protocol and layer. They do not say that there is additional encryption. Official notice is taken that it is old and well-known to increase security by encrypting already-encrypted data, and encryption is sometimes performed in communication protocols. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to encrypt the already-encrypted data of Helwig et al. at a layer of the communication protocol, thereby increasing security.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas J. Meislahn whose telephone number is (703) 305-1338. The examiner can normally be reached from Monday through Thursday from 9AM to 6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tod Swann can be reached on (703) 308-7791. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9052 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

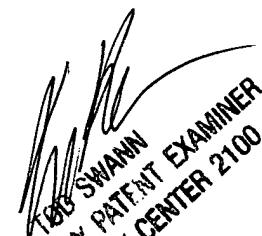
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Art Unit: 2767

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Douglas J. Meislahn  
Examiner  
Art Unit 2132



DJM  
February 11, 2001



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